

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2345

Heard at Montreal, Thursday, 11 March 1993

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Appeal of discipline assessed Yardmaster P. Gilmore, October 2, 1991.

JOINT STATEMENT OF ISSUE:

Yardmaster P. Gilmore was assessed 10 demerit marks effective October 2, 1991 "for your failure to comply with General Rule A, paragraphs iv and ix, while working as yardmaster in Turcot on October 2, 1991, by not joining forces to protect the Company's interest and by not conducting yourself in a courteous and orderly manner resulting in repair work delays on track 22 in Turcot Yard." The Union has appealed the discipline on the grounds that it is totally unnecessary and inappropriate, and requests that a corrective interview be substituted.

The Company has declined the appeal.

FOR THE UNION:

FOR THE COMPANY:

(SGD.) W. G. SCARROW

(SGD.) J. E. PASTERIS

GENERAL CHAIRMAN

for: VICE-PRESIDENT, ST. LAWRENCE REGION

There appeared on behalf of the Company:

D. Gagn,

Labour Relations Officer, Montreal

J. E. Pasteris

Manager, Labour Relations, Montreal

B. Mayer

Track Foreman, Montreal

N. Bishop

Trainmaster, Montreal

And on behalf of the Union:

W. G. Scarrow

General Chairman, Sarnia

F. Garant

Vice-General Chairman, Montreal

R. Michaud

Quebec Provincial Legislative Board Chairman, Montreal

P. Gilmore

Grievor

AWARD OF THE ARBITRATOR

The evidence establishes, to the satisfaction of the Arbitrator, that on October 2, 1991 Mr. Gilmore did fail in the quality of his communication with Section Foreman Bernard Mayer, with respect to the occupancy of Track 22 in Turcot Yard. Mr. Gilmore displayed a degree of impatience and shortness with Mr. Mayer which was uncalled for. There is, however, evidence to indicate that the grievor was experiencing a stressful day, had been forced to delay his lunch, and was subjected to an arguably rude use of the intercom signal system by Mr. Mayer. It should also be noted that at the conclusion of his investigation Mr. Gilmore expressed his regret for the incident and his desire to establish a better working relationship with the Section Foreman.

On the whole of the material before me, while I am satisfied that Mr. Gilmore was deserving of some degree of discipline for his actions, I am satisfied, in light of his prior service and record, that a written reprimand would have been a more appropriate means of conveying to him the need to correct his conduct in the future. In light of his own remarks, it would appear that that would have been an adequate penalty. The Arbitrator therefore directs that the ten demerits assessed against the grievor be removed from his record, with a written reprimand to be substituted therefor.

March 12, 1993

(Sgd.) MICHEL G. PICHER

ARBITRATOR